



DEPARTMENT OF JUSTICE

Notice of Lodging of
Proposed Fifth Joint Modification to Consent Decree
Under The Clean Air Act

On May 29, 2019, the Department of Justice lodged a proposed Fifth Joint Modification To Consent Decree with the United States District Court for the Southern District of Ohio in the lawsuit entitled *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. 99-1182 (EAS) and 99-1250 (EAS).

Under the original Consent Decree, entered by the Court on December 10, 2007, American Electric Power Service Corp., et al. (AEP) agreed to substantially reduce sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from the AEP Eastern System that was then comprised of sixteen coal-fired power plants. As part of the original Consent Decree, AEP was required to install flue gas desulfurization (FGD) technology to reduce SO₂ on two electric generating units located at AEP's Rockport, Indiana power plant. The original Consent Decree required AEP to install FGD technology on Rockport Unit 1 by December 31, 2017 and on Rockport Unit 2 by December 31, 2019. The Consent Decree's requirements for Rockport Unit 1 and Rockport Unit 2 were later modified by the Third Joint Modification to the Consent Decree that was entered by the Court on May 14, 2013. Under the Third Joint Modification to the Consent Decree, AEP was required to retrofit, refuel, or re-power one Rockport Unit by December 31, 2025 and the second Rockport Unit by December 31, 2028.

Under the proposed Fifth Joint Modification to Consent Decree, the deadline for AEP to retrofit, refuel, or re-power Rockport Unit 1 is extended until December 31, 2028 and the requirement to retrofit, refuel, or re-power Rockport Unit 2 is removed. In exchange, AEP

agrees to do the following: 1) install enhanced dry sorbent injection technology to reduce SO₂ emissions on Rockport Unit 1 by December 31, 2020 and Rockport Unit 2 by June 1, 2020; 2) comply with a 30-day rolling average emission rate of 0.15 pounds of SO₂ per million British thermal units of heat input at the Rockport Units for years 2021 and beyond; 3) reduce the AEP Eastern System-wide annual tonnage limitations for SO₂ for years 2021 and beyond; 4) reduce the Rockport Plant-wide annual tonnage limitations for SO₂ for years 2021 and beyond; 5) install selective catalytic reduction NO_x control technology on Rockport Unit 2 by June 1, 2020; 6) comply with a 30-day rolling average emission rate of 0.09 pounds of NO_x per million British thermal units of heat input at the Rockport Units for years 2021 and beyond; 7) reduce the AEP Eastern System-wide annual tonnage limitations for NO_x for years 2018 and beyond; 8) provide the State Co-Plaintiffs with an additional \$4 million in mitigation funding; 9) provide the Citizen Co-Plaintiffs with an additional \$3.5 million in mitigation funding; and 10) retire Rockport Unit 1 by December 31, 2028.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Fifth Joint Modification to Consent Decree.

Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, and should refer to *United States, et al. v. American Electric Power Services Corp.*, D. J. Ref. No. 90-5-2-1-06893. All comments must be submitted no later than thirty days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the Fifth Joint Modification may be examined and downloaded at this Department of Justice website: <http://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Fifth Joint Modification upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check in the amount of \$9.50 (25 cents per page reproduction cost) payable to the United States Treasury.

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